

RANDAZZA LEGAL GROUP

Jay Marshall Wolman, JD
Licensed in CT, MA, NY, DC

2 November 2016

Via Electronic Mail and Hand Delivery – FILED UNDER SEAL

Hon. Katherine B. Forrest
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007
<ForrestNYSDChambers@nysd.uscourts.gov>

Re: *Krechmer v. Tantaros* | 16-cv-7820

Dear Judge Forrest:

I am writing in response to the letter from Defendants' counsel once more banging on the table, looking for any theory other than the merits of the case to attempt to gain a tactical advantage. Rather than engage in a lengthy back-and-forth, I acknowledge that our firm was contacted by counsel for Fox News regarding a potential subpoena in the arbitration matter. We broke neither confidentiality nor the seal. The striking thing, of course, is that Plaintiff is the party who was cautious enough to file the case under seal in the first instance.

Notably, Item 8 in the subpoena does not say we disclosed the existence of any litigation. Mr. Malice was disclosed in the acknowledgments of the published book as her editor. Ms. Tantaros had also failed to ensure she kept his role a secret, using FoxNews.com e-mail from time to time to communicate with him. See Exhibit 1. We were asked whether there had been litigation. Given that *Tied Up in Knots* was published earlier this year, Fox could easily assume that Mr. Malice completed his work to Ms. Tantaros' satisfaction. Fox News would unlikely be unaware of any counterclaims Ms. Tantaros might believe she possesses against Mr. Krechmer. The only logical plaintiff would be Mr. Malice. Because the matter was under seal, we did not confirm the existence of the lawsuit.

Moreover, Item 3 in the subpoena does not suggest we communicated with Mr. Burstein and disclosed same to counsel for Fox News. Instead, it asks for all communications with Ms. Tantaros, including her counsel, and identifies the two that Fox would be aware of, Mr. Burstein and Joseph Cane. It does not suggest that we have been communicating with Fox News regarding this case. We have not done so.

There is no basis for a contempt finding. As to how Mr. Burstein might object to the subpoena or amend his state court Complaint is, admittedly, difficult for him, but it is Defendants' desire that the seal be maintained. It may well be that Defendants cannot have their proverbial cake and eat it too, and they must choose between the seal or having untied hands. As this matter will now be litigated before two other tribunals, and we are well past the mere dismissal stage, the simplest solution would be for the seal to be lifted.

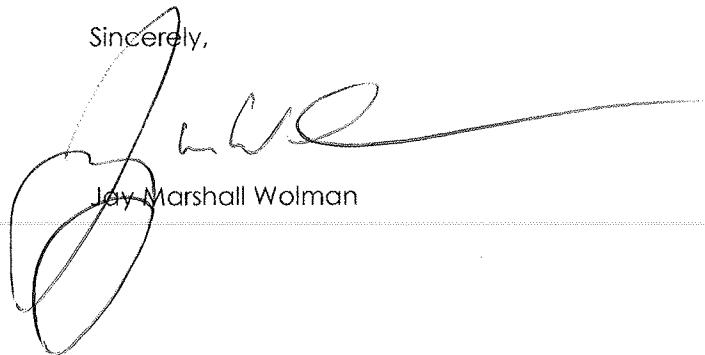
Krechmer v. Tantaros | 16-cv-7820
Page 2 of 2

RANDAZZA
LEGAL GROUP

If the Court desires a conference, consistent with my correspondence yesterday, I am available on Monday and Wednesday next week. As the Court is aware, my office is in Hartford, Connecticut, and I would need to make personal arrangements were I to appear at any other time, being mindful of the fact that we also have a deadline of Friday, November 4, to submit additional evidence. If a conference is held, Plaintiff would request the opportunity to subpoena counsel for Fox News to confirm that we did not break the seal. Defendants cannot use the seal as both a shield and a sword; due process would require that Plaintiff and his counsel be permitted to introduce the most relevant testimony. However, no conference is needed as nothing beyond wild speculation suggests Plaintiff or I have done anything improper.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "J. M. Wolman".

Jay Marshall Wolman

cc: Defendants (via email)

EXHIBIT 1

Email between Malice
and Tantaros

Dated October 30, 2015

From: Tantaros, Andrea <Andrea.Tantaros@FOXNEWS.COM>
Sent: Friday, October 30, 2015 2:19 PM
To: Michael Malice
Subject: RE: FW: TOC

I agree...Glamour is a huge deal and we want them with us. 13m readers.

From: Michael Malice [mailto:michaelmalice@gmail.com]
Sent: Friday, October 30, 2015 2:17 PM
To: Tantaros, Andrea
Subject: Re: FW: TOC

I say we hit her with the Dan chapter and make her swear not to show it to anyone.

Best,
Michael Malice
michaelmalice.com
KimJongIIBook.com

On Fri, Oct 30, 2015 at 2:14 PM, Tantaros, Andrea <Andrea.Tantaros@foxnews.com> wrote:

From: Mahaney, Emily [mailto:Emily_Mahaney@condenast.com]
Sent: Friday, October 30, 2015 1:52 PM
To: Tantaros, Andrea
Subject: Re: TOC

Awesome, thanks! Anything that you can do to get Glamour's books editor Liz Egan and I some pages in the next two weeks would be great. We plan very early out. :)

From: <Tantaros>, "Tantaros, Andrea" <Andrea.Tantaros@FOXNEWS.COM>
Date: Friday, October 30, 2015 at 11:06 AM
To: Emily Mahaney <Emily_Mahaney@condenast.com>
Subject: TOC

Hi Emily!

Please see TOC below. Let me know if you have any questions or need any other info.

AT

Tied Up in Knots

PART 1

The Way We Are

Chapter 1: *The Power Trade*

Chapter 2: *The Phony Sisterhood of the Traveling Pantsuits*

Chapter 3: *The Perils of Female Power*

Chapter 4: *On Tying the Knot*

Chapter 5: *The Kindest Cut*

PART 2

The Unmaking of Americans

Chapter 6: *I Can't Fight This Feeling*

Chapter 7: *Beautiful or Knot?*

Chapter 8: *Downloaded*

Chapter 9: *Fifty States of Grey*

Chapter 10: *Too Cool to Care*

Chapter 11: *Tinder Nation*

This message and its attachments may contain legally privileged or confidential information. It is intended solely for the named addressee. If you are not the addressee indicated in this message (or responsible for delivery of the message to the addressee), you may not copy or deliver this message or its attachments to anyone. Rather, you should permanently delete this message and its attachments and kindly notify the sender by reply e-mail. Any content of this message and its attachments that does not relate to the official business of Fox News or Fox Business must not be taken to have been sent or endorsed by either of them. No representation is made that this email or its attachments are without defect.